

20th January 1950]

V.—GOVERNMENT BILL.

THE MADRAS VILLAGE PANCHAYATS BILL, 1949

(L.A. BILL NO. 22 OF 1949).

* THE HON. SRI K. CHANDRAMOULI :—“ Mr. President, Sir, I move—

‘ that the Madras Village Panchayats Bill a, 1949 (L.A. Bill No. 22 of 1949), as passed by the Legislative Assembly be taken into consideration at once ’.

“ On 30th June 1949, when I moved this House for setting up a Joint Select Committee to consider the Bill I dealt at length with the need for bringing forward this long awaited legislation. The basic principles and policies underlying the Bill are to revitalise the panchayats and make them autonomous and self-contained units of local administration enjoying the independent powers in all matters relating to village life and rural economy limiting outside control as far as possible consistent with efficiency and integrity in working. The Bill in its original form has undergone some changes both at the Select Committee and at the Legislative Assembly. I will now refer in brief to some of the salient changes that have been made.

“ *Reservation of seats.*—Representation of minority communities and women was provided in the Bill by means of co-option. It was generally felt that such a system would perpetuate communal divisions and by that method democracy in villages would be greatly hampered. It was accordingly given up. But having regard to the wishes of the Harijan representatives, and the special recognition given to the Harijans under the Indian Constitution Act, reservation of seats for the members of the Scheduled Castes has been made for a period of ten years. I hope that the Harijans themselves will come forward and give up this reservation even at an earlier date.

“ There is also the exclusion of the village headman. The Bill provided for the association of village headman on panchayats as ex-officio member without the right to vote on the ground that his experience of village affairs would be useful to the panchayat. In deference to the wishes of a large number of members in the Assembly, this clause also was not calculated to the efficiency or smooth working of panchayats, this provision has been deleted. Provision has been made to enable the Inspector to appoint such engineering staff as may be necessary for a panchayat or a group of panchayats. Under the new scheme a large number of panchayats will come into being. As the Inspector will not be able to supervise the administration of these panchayats singlehanded, provision has been made for the appointment of regional inspectors and inspectors to assist him in his work. A great deal depends upon the guidance which those supervisors give to the panchayats, especially in their infancy. I reiterate what I have stated elsewhere that utmost care will be taken to see that the interference

[Sri K. Chandramouli] [20th January 1950]

of the Inspector and his assistants in the administration of the panchayats will be directed only towards the advancement of those small democracies on proper lines for fostering their initiative.

“Augmenting resources.”—It is necessary that panchayats should develop enough resources to discharge their responsibilities for improvement of village. With this end in view, two more items of levy of duty on transfers of property, viz., exchange of immovable property and perpetual leases of such property have been added to the items of statutory income. The levy of a fee on commercial crops such as groundnut, cotton, tobacco, etc., bought and sold in the village has been added to the list of optional taxes, in the place of the levy of a cess on entry of goods in the village, which would hit the poor villager.

“Another means of increasing the resources of the panchayats is by the provision made for discontinuance of private markets in panchayat areas, except those the income derived from which is used for religious, charitable or educational purposes. Panchayats will set up their own markets in the place of prohibited private markets.

“Entrustment of judicial functions to all panchayats.”—The Bill originally provided for vesting judicial functions in bigger or class I panchayats to begin with. As the scheme is likely to be more successful in smaller panchayats where communal divisions are less marked, provision has now been made for entrustment of these functions to all the panchayats.

“A good deal of attention was focussed in the Lower House on the provision regarding the election of president by the entire electorate in the village instead of by members as at present, and the appointment of executive officers. Apprehensions were raised in regard to direct election of president that it would seek to create faction between members and the president who does not owe his position to the members and that the smooth working of the panchayat will be greatly jeopardised. May I ask, Sir, is there no friction now between the President who is elected by the members and the members? So long as the party system is in vogue, there is bound to be opposition and competition. But such competition and opposition should be directed on healthy lines and this depends upon the outlook of the people. The virtue of direct election of president is that it will bring the villagers together to close up their ranks and elect a local leader. Particularly in the interests of minorities this is a salutary provision, for it will make them combine together to express their choice of a local leader. It is my firm conviction which has been shared by several hon. Members here and elsewhere that this system will serve to obliterate class or caste distinction in villages and help to secure village leadership which was a marked feature in our ancient villages. He will be a healthy link between the people and the higher authorities of the Panchayat administration.

“As regards the power of appointment of Executive Officers vested in Government, it has been stated by some that it will be used to negate village autonomy and that the President who is

20th January 1950] [Sri K. Chandramouli]

elected by the entire village should not be distrusted in carrying out the functions properly. I may at once tell the hon. Members of this House, that nothing is farther from the intention of Government than this. I assure them that the appointment of Executive Officers will be made only to bigger panchayats where the honorary president cannot bestow his full time for carrying on the administration and to panchayats the administration of which is not carried on properly and which can afford to pay an executive officer. Surely in any system, there are bound to be lapses and suitable safeguards have to be provided to meet them. The appointment of executive officer is intended to be a corrective against lapses in the administration of panchayats. It should be clearly understood that in any case the Executive Officer is there only to carry out the resolutions of the panchayat and the day to day administration according to the behests of the panchayat. So it cannot be said that the appointment of Executive Officers to panchayats is a negation of democracy; it is to help panchayats to carry on their administration efficiently.

"The Bill has been conceived to make the administration of panchayats broad-based. The clauses have been drafted with due regard to the suggestions and criticisms received from various associations and individuals interested in the panchayat movement, calculated to secure the rehabilitation of villages. With these few words, I move that the Bill as passed by the Assembly be taken into consideration."

MR. PRESIDENT :—"The question is—

'that the Madras Village Panchayats Bill, 1949 (L.A. Bill No. 22 of 1949), as passed by the Legislative Assembly be taken into consideration at once'."

SRI B. BHIMA RAO :—"Sir, I want to say a few words."

MR. PRESIDENT :—"May I know from both sides of the House how much time they want to devote to this Bill?"

DR. V. K. JOHN :—"Sir, we are not moving any amendments, because we know that our amendments will not go through, but we would like to speak at length on the general principles underlying this Bill."

MR. PRESIDENT :—"I would like to say few words tomorrow on the attitude which the Opposition has evinced in their desire not to take part in these matter. After hearing my views if they have the same attitude that is a different matter. But I expect that there will be a change, and if there were any amendments. I am prepared to allow some amendments even tomorrow. But apart from that I would like to know what time the hon. Members would like to have either for general discussion or for amendments. I may tell the House that I have no desire to curtail the discussions—either on amendments or on the general principles."

DR. V. K. JOHN :—"I think we can get through this Bill today and tomorrow."

[20th January 1950]

* SRI B. BHIMA RAO :—" Sir, I wish to say a few words on this important measure. I must confess that I am one of those who is sceptical and even pessimistic with regard to the extension of adult franchise and the constitution of panchayats on that basis. But when we refer to the speeches of Dr. Ambedkar and Dr. Rajendra Prasad, President of the Constituent Assembly, before adjourning the Constituent Assembly to the 24th and 25th instant. I may take credit for being one of those who feel that whatever our personal views may be we have to subordinate them to the opinion of the leaders for whom I have the highest regard and greatest respect.

12 noon. " They have launched upon this wide programme of having elections on adult franchise and the same principle is to be applied in the case of election of presidents and vice-presidents and members of the panchayats to be constituted under this measure. When the Bill was published early in June last year, I consulted several of my constituents who returned me to this Council thirteen years ago, with regard to certain of its provisions; for instance, I consulted them with regard to the power of registration conferred on the president by this Bill and everyone of them said ' kindly do not have this applied to my district '. I am very sorry to mention the fact, Sir, that although there are about 975 villages in my district of Bellary, most of them are factious. About eight years ago when most of you were in jail, the Advisers' Government wanted to constitute at least half a dozen villages in every district into model villages in which they could have dispensaries, neatly laid roads, elementary schools and so forth and the then Collector of the district—he is unfortunately no more now—he died of heart-failure at Ootacamund—reported to the Government that there was absolutely no village in Bellary which was free from faction and party politics. He also mentioned this fact to me and said, ' if there are some villages in the district where there are no factions please give a list to me of a dozen such villages '. Sir, I consulted thereupon some of my friends and with very great difficulty gave a list of six villages out of 975 where the scheme of model villages could be tried

SRI R. SURYANARAYANA RAO :—" May I know whether in the list of the hon. Member was included Belladonna."

SRI B. BHIMA RAO :—" I did not include that village because it is highly factions and at that time there were some murder cases in that village. (Laughter.) Finally, Sir, that scheme was applied by the Government to only two villages in Bellary district and in only one of them it has been successful. I was present in the Legislative Assembly on the 5th and 6th of this month when this measure was being discussed there. The Members there wanted that the original clause 8 should be deleted which provided for the patel or headman of every village becoming an ex-officio member of the panchayat constituted for that village but not entitled to vote at the meetings of the panchayat. I was keenly watching the proceedings on both these days and found a number of Members recounting their experiences in the villages wherein the Reddi stands on one side

20th January 1950] [Sri B. Bhima Rao]

and the karnam on the other and in between them the village becomes factious with the result that they resort to litigation, civil and criminal. The Members with one voice demanded that that clause should be deleted and my Hon. Friend, the Minister for Local Administration acceded to it. Now the village headman and the karnam are out of the field and I believe the working of these panchayats will be more smooth. But still there are certain suggestions which I would like to make for the better working of the panchayats. Sir, I would suggest to the Hon. the Minister that the procedure laid down in clause 3 of the Bill may be more amplified before taking action under clause 4 of the Bill as it has now emerged from the Assembly, in constituting panchayats. In other words, fuller instructions may be given to the Inspector who goes to the villages to make enquiries as to the desirability of constituting any village into a panchayat under the Act. He must be asked, if a village is so faction-ridden as to be unsuitable to have these panchayats, to report to the Government that the Act should not be applied to that village and that it should not be constituted as a panchayat. But, Sir, I find that clause 4 is a very very mandatory one. As soon as a notification is made, the clause provides, a panchayat shall be constituted for each village with effect from the date specified in that behalf in the notification issued, that is under section 3, sub-section (1) of the Act. I submit that if the preliminary enquiry by the Inspector reveals the existence of factions in a particular village, that village should be exempted from the provisions of this Bill, if it is not possible to get rid of the factions. It would be better if the Act is not made applicable to these villages in the interests of the villagers themselves. For when such an enquiry is held and the decision as I have mentioned just now is taken, I think it is possible that the parties may come together in course of time and put forth a joint demand for the introduction of the measure. Sir, you might be aware that often when security proceedings are launched under section 107 of the Criminal Procedure Code, a better sense comes to prevail among the villagers, they come to terms and file petitions before the District Magistrates for withdrawing all the cases saying that they have composed their differences. So also here, seeing that there will be better amenities for them if they only compose their differences and give up factions, the villagers may come together. It is quite possible and it is very likely also that, when the Inspector goes to the village and makes a preliminary enquiry in this direction, the villagers may make a statement signed by them before him that they have given up all their quarrels and that this measure should be made applicable to their village also. Therefore, Sir, I submit that in this respect fuller instructions should be given by the Government to the Inspector to make a complete and thorough enquiry before a notification is made.

“ Now, Sir, I would like to make a few observations with regard to one or two of the other clauses. I have proposed an amendment in this connection which, if there is a satisfactory response from the Hon. the Minister, I do not want to press. Sir, one clause which created consternation in my district among the intelligent

[Sri B. Bhima Rao] [20th January 1950]

constituents to whom the various clauses were read out, is clause 133 wherein certain provisions of the Indian Registration Act, 1908, are sought to be made applicable to these panchayats, and the presidents have been empowered to register certain documents. The original sub-clause (a) of this clause read like this:—

‘ 133 (a) . . . stamp duty or registration fees ’.

Now it has been amended as ‘ stamp duty and registration fees ’. That is to say, under the original clause, even wills could be registered by these presidents or other executive officers. You are aware, Sir, how in factious villages wills spring up immediately after the death of a wealthy man attested by a number of persons—10 or 15—which number itself will throw suspicion upon the authenticity of the will. Such a document was sought to be registered by the president or the vice-president or the executive authorities under the original clause. Naturally people were apprehensive that such powers should be conferred on these authorities. Now the expression ‘used is ‘and’ instead of ‘or’ which found a place in the original clause, and this is due to an amendment proposed by my Hon. Friend, Mr. Chandramouli, during the Select Committee stage. I have been racking my brains for the last three or four days to find out if there is any document which is both exempt from stamp duty and registration fees. Although the Stamp Act provides for a number of exemptions from payment of stamp duty yet there is absolutely no provision in the Indian Registration Act granting exemption from payment of registration fees. Even if the Government present a document for registration, they may not be subject to stamp duty but they must pay the registration fees. I do not know, therefore, what documents the Hon. the Minister refers to in sub-clause (a) of clause 133. I have also consulted some registration authorities and they inform me that there is no document which is both exempt from stamp duty and registration fees. If there is, however, any such document, it may be expressly laid down rather than giving powers to the president or the vice-president who has not got adequate knowledge of law to interpret whether any document comes under that category. Even the High Courts are differing with regard to the registrability of some documents. In the case of mining leases, the Bombay and the Allahabad High Courts have held that the Government are bound by the provisions of the Registration Act and that those documents must be registered but the Madras High Court holds otherwise. When such is the case, I wonder how a village panchayat president can determine which document comes under this category. I think Sir, in order to remove any doubt or difficulty, the draftsman of this clause ought to have specifically and expressly mentioned a list of documents in an annexure or in a separate schedule which the panchayat could register.”

MR. PRESIDENT :—“ Perhaps the idea of the Government is to do it under the rules.”

12-15
P.m

SRI B. BHIMA RAO :—“ It would then come under the category of the mischief of delegated legislation. Clause (b) speaks of ‘ all or any documents which are classified by rules made under

20th January 1950]

[Sri B. Bhima Rao]

this Act, as documents of an ephemeral nature.' If clause (a) also refers to such a procedure as clause (b), then clause (a) is quite redundant. If only clause (b) is retained, it will come within the mischief of delegated legislation. We have had so many rulings of the Federal Court and the other courts last year wherein they have condemned delegation by legislature to the Government to make a list of subjects in which powers can be exercised, which only a legislature can perform. With regard to this clause I have moved an amendment that the whole clause may be deleted, because it is very difficult for the ordinary president of a panchayat board to comprehend the nature of these documents and we cannot leave it to the rule-making power of the Government.

" Similarly, Sir, with regard to clause 138, where the Government want to take power to decide questions of difficulty, I have proposed an amendment that instead of the Government it should be—

' a committee of the Legislature, consisting of eleven members, to be annually elected by them, of whom the Minister for Local Administration shall be one and be the Chairman thereof.' And then, I have also provided that—

' A report of the action taken by the committee, shall be laid before the Legislature at the next meeting after the decision, for their approval.'

That would remove any difficulty or objection on the ground that it is delegated legislation. With these remarks, I support the measure. The Hon. Minister may consider these difficulties and resolve them before the Bill is finally adopted."

* DR. V. K. JOHN :—" Mr. President, Sir, this is a very important measure which touches all villages, 54,000 in number. There are now 7,200 panchayats out of which 374 are major panchayats. They are also going to be affected. I do not think that any measure which has come before this House till now is so important as this in touching the lives of the people in the villages. But I find that all the Ministers except one are absent from this House and even the attendance of members on the Congress benches is very poor. We have probably only as many members on that side as on this side of the House. Sir, I do not regret that Ministers are absent from this House, because as I have said recently and as I emphasise it again, this House is a mere post office and they do not care what discussion takes place here, what suggestions are offered and what criticisms are made in this House. Therefore I do not regret that Ministers are not here now although you made an appeal to them that, tomorrow morning when the Hon. Speaker of the Central Assembly will be here, they may be present here. To treat this House in the manner the Government have been treating it, is very bad indeed. That is why, Sir, you have referred to"

[20th January 1950]

MR. PRESIDENT :—“ Before the hon. Member proceeds further, may I ask him to tell me if he thinks that more Ministers should be present here now? ”

* DR. V. K. JOHN :—“ While a measure which touches the life of every individual in these 54,000 villages is under discussion here, every Minister, if he is interested in the public welfare and in the proceedings of this Council, should be present here. If not, the usefulness, the dignity and the prestige of this House are at stake.”

MR. PRESIDENT :—“ With regard to this point, I do not know even in the other House all the Ministers were present.”

THE HON. SRI K. MADHAVA MENON :—“ Only the Minister concerned was present there.”

MR. PRESIDENT :—“ Let not the hon. Member therefore proceed in that strain. If any difference is shown between this House and the other House, then it is a different matter. In both the Houses, the concerned Minister has been attending. If really the hon. Member wants any other Ministers to be present, he may tell me.”

* DR. V. K. JOHN :—“ It would then be arguing in a vicious circle : Ministers are not present in the Upper House because they were not present in the Lower House and vice versa. But I ask, Sir, in regard to a measure which affects the lives of men, women and children in 54,000 villages, should not all the Ministers be here? If they think that some useful suggestions and criticisms will be made on the floor of this House, they ought to be here, but if they simply think that it would be one or two days wasted, they need not be here. It is not because the Ministers are not in the City; they are in the City. I used to regret the absence of Ministers before and request you to call them to attend the House. The prestige, dignity and the usefulness of the House are at stake. I have repeated several times that Ministers should not treat this House with scant courtesy by their absence when such an important measure is being discussed. I stop with that.

“ Sir, this is a very important measure. While I congratulate the Hon. Minister on his good intentions and knowing him as I do, his intentions are sincerely expressed,—I regret to say that this measure does not in the least carry out the intentions which he expressed in his speech or the intentions of the framers of the Constitution of India. Article 40 of the Constitution laying down the directive principles of state policy states that the State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of Self-Government. The Government should have copied or adapted the provisions of this constitution in framing their Panchayat Bill. Now India has become a free country and a self-governing country. The provinces (or the states as they will become after the 26th instant) are given a large measure

20th January 1950] [Dr. V. K. John]

of autonomy. Similarly the villages also should be made units of Self-Government. The Indian Constitution should be adapted or copied for framing the constitution of the village panchayats, but instead of that they have copied the City Municipal Act, the District Municipalities Act and the Local Boards Act and copied them in a manner which has destroyed Self-Government in the villages. If they had the same intelligence, the same idea, ideology and the principles before them, they should have constituted the panchayats as self-governing units with a council of 25 or a smaller number of persons, with Ministers or men taking their place and doing the work of Ministers—Ministers for Education, for Public Health, for Industries and so on—just as we have in the provincial administration. That is what they should have done. These people will be responsible to the Council. The law will be regulated by the Council. Then we would have given effect to the directive principles of the Constitution of India of which we should all be proud. But what have the Government done here? Is there a Minister for Public Works or a Minister for Education or a Minister for Industries in these panchayats? There is the executive officer appointed by the Government. The Government can exercise their patronage and appoint 20,000 executive officers. Any one who has read article 40 of the Constitution of India will be sorely disappointed when he sees how the Government have gone against the very principle, the very idea and the ideology of article 40 of the Constitution of India. The genius of our people, in ancient times, before the foreigners came to our country, expressed itself in village republics. Historians have recorded the efficiency, the prestige and the high stature of the village republics. The foreigner came here and he reduced all that to nothing. Now our government has come and the framers of our Constitution have said that we must have real autonomous villages just like autonomous provinces (or states). For that purpose, the first thing that is required is a free election where all adults will vote and elect members for a Council or Assembly or Parliament of the village, whatever you call it. They will legislate for the village. There will be a Cabinet responsible to that Council for administering the affairs of the village. But what is the definition of a panchayat given in this Bill? It says—

“ ‘ Panchayat ’ means the body constituted for the local administration of a village under this Act.”

Can insincerity go further? I do not call it ‘ dishonesty ’. Does the panchayat administer the village at all? It is the executive officer appointed by the Government who does it. It is the Inspector of Local Boards or the Minister of the Government sitting here in Madras who administers the panchayats. I challenge every member on the other side of the House; I challenge the Hon. Minister. After I remarked that only one Minister was present here, another Minister has come in and I ask him ‘ Is it not merely a measure to tax the poor people in the villages? Is not the primary object of this Bill to tax the poor people in the village? ’ Why? Simply because you have exhausted your sources of taxation.

[Dr. V. K. John]

[20th January 1950]

12-30
p.m.

This province has got the notoriety of being the most highly taxed province not only in India, it is perhaps the most highly taxed province in any part of the world. You have exhausted your resources and therefore you have now taken to the idea of collecting taxes from the poor people in the village. Clause 63 of this Bill says: 'Every panchayat *shall* levy in the village a house-tax, a profession-tax and a vehicle tax'. Again, sub-clause (2) of the same clause says: 'A duty *shall* also be levied in every village on certain transfers of property in accordance with the provisions of section 67'. Again, *shall* levy. The bureaucratic British, foreign Government did not go to that extent. What did they say in the City Municipal Act? Section 99 of the City Municipal Act says: 'The council *may* levy a property tax, a tax on companies, a profession tax . . .'. It is left to them to levy it or not. The Local Boards Act in section 75 (1) says: 'The District Board may, by a resolution, determine that any of the following taxes shall be levied'. There also '*may*'. Section 78 (1) of the District Municipalities Act says: 'Every municipal council *may* levy a property tax, a profession tax,'—so, even here '*may*'. Do you call it Self-Government when the panchayat has no option to levy or not to levy a tax? That option which was given under the previous Acts passed by the Britishers is denied to these panchayats now, which they say are self-governing institutions. Sir, we have heard in political history that the people in England fought the Parliament saying 'you cannot have tax unless there is representation'. Here, who is the person to impose this tax? In a self-governing unit, it is that unit itself which ought to levy the tax. But here in this Bill you find '*shall* levy a tax'. What will happen? You will be collecting as much money as you can from the villagers and you will be spending it there itself without discharging the responsibilities which the Government of this province have been discharging up to this time. You are now taking away those responsibilities in regard to roads, in regard to health, education and everything else, and you are collecting taxes from these poor villagers. In this province, the attempt is made by this Government to make every man a tax-payer and every other man a tax-payer and a tax gatherer. In this attempt, which I would call a nefarious attempt—by introducing what is called a local self-government measure, they have provided that the tax is compulsory in the villages. And who wants this Act in the villages? The villagers will never want it; this is the most unpopular Act which will be on the Statute Book, the people in the villages are not given the freedom to levy or not to levy a tax, nor to prescribe the maximum or the minimum amounts; it is the Government which will prescribe them. And yet you want to call these self-governing institutions.

"Another provision which is meaningless which puts a premium on collecting the full tax is clause 71 which says: 'the Government shall set apart every year a sum not being less than twelve and a half per cent of the total land revenue (including water-cess) collected in the province during that year and distribute such sum in the prescribed manner as grants to Class II

20th January 1950] [Dr. V. K. John]

panchayats on the basis of their population'. And according to clause 5, Class I panchayat is one 'with jurisdiction over a population estimated at not less than five thousand and with an estimated annual income of not less than ten thousand rupees' and all the other panchayats are Class II panchayats. Can anybody with any intelligence think of introducing a provision like the one we find in clause 71? This is a thoughtless piece of legislation from many points of view. It is not local self-government at all. If you have allowed the panchayats the option to impose or not to impose any tax, surely they will sound public opinion and find out what taxes are popular and what taxes are unpopular and what taxes can easily be collected and then they will decide. But now you compel them to collect various taxes by legislation, not at their option, although the municipalities, the local boards and the City Council are all given the option now and they are still exercising that option. The Hon. Minister tells us: 'Oh, we are introducing local self-government'. This is self-government to an institution which has not got the option or freedom to levy a tax or to fix the maximum and minimum!

"Now let us look at the other clauses of this Bill which is acclaimed to be a local self-government Bill. Sir, I was told, and I read in the papers that a chorus of tribute was paid to the Hon. Minister on introducing this Bill, at the end of the discussions in the other House. In spite of the fact that I am a good friend of the Hon. Minister, I am sorry, Sir, I cannot share in that chorus of tribute paid to him. For, look at these self-governing institutions. Who is to administer this institution?—the executive officer, a whole-time executive officer appointed and paid by the Government. Clause 28 says: 'A whole-time executive officer shall be appointed by the Government for any panchayat which may be notified by them in this behalf'. Why by the Government, I ask? And yet why call it a self-governing institution? Are the Ministers of this Provincial Government to be appointed by the Central Government? After all, they are also our Government; and in that case, will we have any self-government? The question is: 'are you going to have units of self-government?' Then, I say you must leave everything to the self-governing institution."

SRI S. B. ADITYAN:—"In small panchayats, the presidents will be the executive officers."

* DR. V. K. JOHN:—"My friend the Government Whip says that in small panchayats the presidents are executive officers; but according to population and income—who appoints the executive officer? I think my friend is a very good advocate for the Government."

"And so far as the executive officer is concerned, let us look at his functions. The Hon. Minister read something from typewritten notes this morning and I heard him say that the executive officer is only to carry out the directions of the panchayat. But has he read through clause 30 of the Bill and the various powers given

[Dr. V. K. John] [20th January 1950]

to the executive officer under clause 29? If you read carefully, you will find that the executive officer is the one man who is given power to administer the panchayat, not the president who can be removed by the Inspector or by the Government whenever they like. It is only the executive officer who has got the authority, the power, the function and the responsibility to carry on the administration of the panchayat, and he is appointed by the Government. Why by the Government, I want to know; probably because this Government think there may be twenty thousand persons to be appointed, why not exercise the patronage and why leave it to the panchayat? And yet, you call it a self-governing institution, you publish it all over the world, you tell the newspapers and say that leaders also should be written! That is how the Madras Government have introduced this Bill to make panchayats self-governing units; but what is it that will happen? Their own men will manage everything, the men whom they will appoint. Yet, the Hon. Minister tells this House that the executive officer will only carry out the instructions of the panchayat. Let him study the clauses of this Bill carefully if he has not already done so. The executive officer is a man who although he has to carry out the decisions of the panchayat can still report to the Government and need not carry out the decisions of the panchayat in all matters; he is the man to carry on the administration." (At this stage, the Speaker had some consultation with Sri Narayanaswami Nayudu.)

SRI S. B. ADITYAN :—"Is it in order, Sir, for the hon. Member to interfere in the course of a speech?"

MR. PRESIDENT :—"The hon. Member was telling the Doctor something."

DR. V. K. JOHN :—"I do not take it as an interruption, Sir. A member of my party made a suggestion; he asked me a query and wanted to point out a clause to me; I do not think it is an interruption at all; but the Whip is interrupting me. I am not at all moved by that."

MR. PRESIDENT :—"I do not want any interruptions when a member is speaking. There is a definite rule that unless it affects a member or something particular by way of personal explanation is necessary no interruption should be made. Every member has got the right to speak and an opportunity will be given to him. It is better we do not interfere with speeches."

THE HON. SRI K. MADHAVA MENON :—"Even in Parliament, interjections are allowed."

MR. PRESIDENT :—"Interjections are different."

* DR. V. K. JOHN :—"I am glad the Chief Whip will have an opportunity to speak. Now that you have assured him, I think he will not worry when I am speaking."

20th January 1950]

[Dr. V. K. John]

“ Now let us take the establishment required; who is to appoint them? Again the Government, i.e., the Inspector of Local Boards who has got every power; he can even dismiss the president. Under the chapter ‘ Control ’, the Inspector shall supervise the administration of all panchayats in the province, i.e., under clause 42. Sir, I do not want to take up the time of the House in going through all the clauses; but you will find that the person who has full authority in respect of almost everything is the Minister or the Government, or their own officer, the Inspector of Local Boards or the men appointed by the Government as executive officers or as staff. In other words, the Government will appoint thousands and thousands of officers and exercise patronage; and yet they call the panchayats ‘ units of self-government ’.”

MR. PRESIDENT :—“ Does this Bill call them units of self-government? ”

* DR. V. K. JOHN :—“ A panchayat is defined as a ‘ body constituted for the local administration of a village under this Act ’; it is a false definition and a court of law will say this is not a definition which is borne out by the provisions.”

MR. PRESIDENT :—“ Evidently the Government have not taken up the work of forming units of self-government; it is only local administration.”

* DR. V. K. JOHN :—“ I remember the Hon. Minister saying that the object was to have autonomous units of administration; and I have made a note of it, with great regret that one who is responsible for this Bill, should make a speech which is only for the Press. A Government may live on promises and propaganda, but this kind of propaganda when a Bill is introduced and when we know what this Bill is . . . ”

THE HON. SRI K. MADHAVA MENON :—“ Are the speeches of members not meant for the Press? ”

* DR. V. K. JOHN :—“ Is he speaking for himself or for somebody else? ”

THE HON. SRI K. MADHAVA MENON :—“ If it fits him, let him take it, Sir.”

* DR. V. K. JOHN :—“ I do not see, Sir, why my friend should get out of temper. I am smiling, smiling through life and smiling through my speech. I say the Hon. Minister who is supposed to have read these provisions and who is sponsoring this Bill, said in introducing the measure that these will be autonomous units of self-government without any control from others. I think, Sir, you may ask him to re-read what the sections say about it. If you look through the provisions of the Bill, clause by clause, you will find that every attempt is made—and no

[Dr. V. K. John]

[20th January 1950]

attempt could have been more successful—to make these panchayats, not units of self-government, but humble small departments of the Government of this Province, controlled by them, ruled by them, limited by them in their powers; and these panchayats are defined in a wrong way in the definition section.

12-45 p.m. “ Now, after the passing of the Constitution of India, particularly Article 40 dealing with the directive principle of State policy, how dare the Government of Madras introduce a Bill before the Legislature creating panchayats but taking away every power of self-government from them? I ask, is such a measure in keeping with the Constitution of India which they ought to follow? I know it was brought before us last year, but still they could have amended it. They did not do that. If you look at it from every point of view, whether it is administration, taxation or removal of president or any thing else, you will find outside control and then compulsion. The panchayats will only be made tax-gatherers. To do what? To discharge the responsibilities that lie on the Government to-day. Again, what are the Government contributing to these panchayats? I ask the Minister to make a list of the responsibilities which the panchayats are compelled—I use the word ‘compelled’ because there is no option left to them to discharge under this Bill, and then find out the expenses incurred for discharging those responsibilities which the Government have to discharge. Then, why not the Government say they are discharging responsibilities to the extent of 20 crores and we must pay out to them 20 crores. But, instead of that they say, if you collect Rs. 10,000, we shall pay no contribution at all, but if you collect less than Rs. 10,000 we shall pay you contribution and the extent of the contribution is left with us and not with you. Then, how can the newly-born panchayat administer it when the Government take away the responsibilities of the panchayat? As a matter of fact, in regard to education, public health services and such other matters, should not the Government shell out money which they were otherwise shelling out? I say the Government want to waste all the 57 crores which they collect on something else and ask the 54,000 villages, to be grouped together into 20,000 panchayats, to discharge half the responsibility saying, we are not going to pay you anything except a little amount and you collect taxes for discharging the responsibilities. So, Sir, I say, this is merely a taxation measure. Again, compulsion also is used. Even under the City Municipal Act, in the Local Board Act and in the District Municipalities Act, option is given to the councils to levy or not to levy a tax. I do not see why compulsion is used in this case alone. It is simply because without compulsion, they know very well the panchayats cannot impose all the taxes, and if they do they will become very unpopular. The Government do not care whether others become unpopular, but they are compelled to levy taxes and indirectly pay to the Government. Sir, this is a measure of taxation, as I stated before, and in no part of the civilised world would you find a measure for a self-governing

20th January 1950]

[Dr. V. K. John]

unit, taking away the power to tax, compelling them to tax, transferring the unpopularity to them? Nobody who has read through this Bill can support it, because it is inconsistent with the directive principle contained in Article 40 of the Constitution of India. It is against common-sense, against equity and against justice and it is no self-government at all. And, what is this Bill? As I said, it is something ill-conceived, borrowed from those Acts introduced by foreign Governments and not self-government. Whereas, I should say, even the City Municipal Act, the Local Boards Act and the District Municipalities Act, are better framed. On the other hand, popular Government introduce a measure which they call that it is for the creation of units of self-government. I say that from every point of view this measure should be condemned and condemned with as much force as one could command. It is an irresponsible measure brought into the Legislature, pretending to create units of self-government with no power given to them and controlled in every way by the Government of this Province. It is very unjust. This will never succeed and people will never have it. You will find, Sir, that knowing very well that the people cannot have it, they have provided in clause 8 that the Inspector of Local Boards and Municipal Councils shall declare every village with a population of not less than 500 to be a village panchayat as soon as it is notified. Now, Sir, the Hon. Minister said, oh! there are factions and we have therefore taken some power for the good Government of these institutions. I say, that is looking at the thing from a wrong point. We people living in cities, dabbling in politics, create a lot of factions and it is our influence when I say 'our' influence, it is the influence of power-politics which creates factions—that has gone to local bodies. But, Sir, we ought to be proud of our village people and they are honest. I have great faith in them and in future if real self-governing institutions are given to them, they would work them very well and that could be done only when there is no interference by Government. I say, I have great faith in their character, in their integrity if only they are not spoiled by politics which this so-called civilised Government has got. What have they done? We ought to have created leadership in villages—you may call it by any name you like. As a matter of fact, the Hon. Ministers are administering the Province of Madras and they could have taken this precaution.

“ You know, Sir that two of the fundamental characteristics of any piece of legislation are, certainty and flexibility. Now, you need not have created all of a sudden all the 20,000 village panchayats and appointed 20,000 executive officers, or as my hon. Friend on other side said, less than 20,000, because presidents also are there. What they should have done is, they should have had an advisory body along with the constitution of village panchayats stating that the panchayats will have such and such powers of course, they need not be given all the powers all of a sudden—some villages may be given the responsibility of looking after the health of the people, some public works, some education, some development of cottage industries and so on, by choosing the respective

[Dr. V. K. John] [20th January 1950]

villages on the advice of experts. You can in course of time release power after power when you find the panchayat is managing very well the responsibility entrusted to it. For instance, if the responsibility for elementary education is given to a particular panchayat and they have administered it very well, you can give it secondary education and later on university education if you can. It all depends on the capacity or the leadership in the village if only you watch it very carefully and very closely and you can gradually release power after power. But, do not give the panchayats all the powers provided under this Bill for instance, power of taxation and they may be given such responsibility as the council will say, we will take up the responsibility, we will collect money, you say you will give us as much as you can. If they say, they will take up some responsibility in respect of the trunk roads or some more responsibility, release them that responsibility one item after another. Can this Government understand the important characteristics of any piece of legislation and release powers one after another so that the panchayats may carry on? No, they will not do that. Everything is confusion and confusion worst confounded. I am asked to join in the chorus of tributes paid to the author of this Bill."

THE HON. SRI K. MADHAVA MENON :—" I can only remark that nobody has yet paid any compliment in this House at least. My hon. Friend says, he is asked to join in it. He is not asked."

MR. PRESIDENT :—" I do not agree with the Hon. Mr. Madhava Menon. Government are anxious to get it."

* DR. V. K. JOHN :—" In the speech made by the Hon. Mr. Chandramouli he asked for it, but the Hon. Mr. Madhava Menon was not here when he moved the Bill, though he is present now."

MR. PRESIDENT :—" I think the greatest compliment can come only from the Opposition."

* DR. V. K. JOHN :—" Of course, the Opposition should compliment the Government when they bring forward any good measure, but when they go wrong, it is our function, without fear or favour, to expose the Government and criticize them."

MR. PRESIDENT :—" My request is, do not abdicate that function. That is what I am going to tell you tomorrow in the long statement I am going to make and I hope the hon. Member will be present then."

* DR. V. K. JOHN :—" I know we are not pleased and we feel a sense of frustration because when we brought in certain amendments and seriously pressed that this Council must have equal powers to consider them with the Assembly, they said, you are right, but we will not accept the amendments; we may bring in another Bill; the Constitution says we can bring in amendments. Sir, when amendments are brought, it is not for the Government to say, we will not accept them here because the Bill has to be sent back again; we do not want that inconvenience; you will have

20th January 1950]

[Dr. V. K. John]

another procedure, we will bring in another amending Bill. I say, Sir, such a procedure is a tantalising and a tortuous procedure, which Government do not realize and it is hurting the dignity and usefulness of this House. I say, when we bring in amendments, the proper course would be for you to accept them if you find them in order. Why should you bring in another measure separately for that? Therefore, Sir, we have the feeling of frustration that whatever amendments are moved from this side, whether good or bad they would not accept them—I need not go into its antithesis and suggest certain things which they will take, though I am not going to benefit by it but they will bring in another Bill as they did previously."

MR. PRESIDENT :—" I think, your duty is as much to the Government as to the public at large."

* DR. V. K. JOHN :—" That is our duty, but when the Government are consistent in their view that whatever be the merits of the amendments, they would not accept them and that they would bring in another piece of legislation because they have a majority who can stand up and vote for it, I say, all this is not in keeping with our own dignity and we should not give them an opportunity to tell us, we treat you like school boys or rather sorters in a post office who without opening the letters send them to their destination, the destination being the Governor or the Province. Now, I am not on that."

THE HON. SRI K. MADHAVA MENON :—" Whether the Bill says so or not, I will only say, he feels about himself."

* DR. V. K. JOHN :—" I do not know why my hon. Friend is feeling hurt when I am speaking."

MR. PRESIDENT :—" May I know whether the hon. Member would finish his speech now or take some more time. It is already 1 o'clock."

* DR. V. K. JOHN :—" Only a few minutes, Sir. Now, look at the Village Panchayats Bill you have got here. It contains 138 clauses a very long piece of legislation. They should have to appoint not only executive officers in every panchayat, but they should also give a lawyer to interpret the provisions of the Act, in view of the extent of this law and the complicated nature of it. As a matter of fact, it is not at all required but still they have made it so long."

" Later again, you have the Schedules and one of the Schedules deal with transitional provisions—Schedule III—In that Schedule they are making amendment to the Local Boards Act. They are not brought in as an amending Bill but as a Schedule to the Bill and these run to about 20 pages and 122 sections. I do not know why instead of bringing in these amendments as an amending Bill, and passing it in the usual way, they should have brought in these amendments as a Schedule to a very complicated piece of legislation. Are we not expected to go through it clause by clause, I mean the amendments to the Local Boards Act? The Hon. Minister

[Dr. V. K. John]

[20th January 1950]

referred in one word to these 122 amendments to a very ancient piece of legislation in force in this Province for so many years—I mean this 1920 Act?

“ They know, Sir, that after all when they have a majority in the Legislature everything will go through; they could have tied it to a spaniel and it would have walked along. One hundred and twenty amendments have been brought in to this Bill, Sir. I am not so much bothered about them nor of the provisions of the Bill. But my point is let them introduce a real measure of autonomy for the self-governing units with due regard and respect for the constitution of the country. To carry it out, I say, Sir, they must withdraw this Bill. If they have regard for it, let them withdraw the Bill because it is not in accordance with section 40 of the Constitution. Let them introduce another self-governing measure which will benefit the village people and enable them to express their genius. As I said, the genius of our village people had been in the past expressed through village republics; let us now revive them and give the people an opportunity to express their genius. If this Government will do that, they are doing something good to the people and carrying out the intentions of the Constitution of India. It is no good introducing a measure which, as I said and I repeat now, is merely a taxation measure and would add to the revenues of the province indirectly and enable them to be spending more than 57 crores of rupees which they have been spending all these years.”

The House adjourned for lunch.

(After lunch—3 p.m.)

* SRI R. SURYANARAYANA RAO :—“ Mr. President, Sir, I remember having read a story in my college days in the life of Addison. Addison was a poor speaker and when once he attempted to speak in a gathering, he got up and said : ‘ I conceive ’ and he said it thrice.”

MR. PRESIDENT :—“ I think that relates to the House of Parliament itself.”

* SRI R. SURYANARAYANA RAO :—“ It is said that some one in the gathering got up and said ‘ Addison conceived thrice but brought forth nothing.’ That appears to be the fate of this Bill, Sir. This is being conceived for many years; the Advisers conceived it and they brought forth something which the present Ministry did not like. It is being considered for so many years and in the end, Sir, the Bill presented to the House, as the Leader of the Opposition pointed out, means nothing; it does not confer autonomy on the villages which the Hon. the Minister for Local Administration thinks the Bill confers upon them. I shall deal with a few sections of the Bill to show how in many respects the Bill is somewhat ill-conceived. I take section 3 (1) and section 4 (1) of the Bill as it has come from the Assembly. The Government wants to create panchayats for every village with a population of 500. I wonder, Sir,

20th January 1950] [Sri R. Suryanarayana Rao]

if the Hon. the Minister for Local Administration has perused the reports of the previous Inspectors-General of Panchayats, such as those of Mr. Gopalaswami Ayyangar, Mr. Rutherford and others who did so much to promote village panchayat administration in this Province. A perusal of the reports would have showed him that most of the panchayats did not function apart from factious spirit that prevailed there, on account of the fact that the panchayats had not enough funds at their disposal to discharge the duties entrusted to them and unless the Government could come forth with liberal grants they would not have been able to accomplish what little they had to their credit. With a population of 500 and the financial proposals as provided in the Bill, I wonder, Sir, how the Hon. Minister can feel that such village panchayats will function properly and discharge the multifarious duties devolving on them. I would have been glad if a provision had been made for the clubbing together of villages, not the single revenue village with a population of 500, but contiguous villages even if they are separate revenue villages so that the income derived from the three or four villages might be enough to enable the panchayats to discharge their functions satisfactorily. Sir, the Hon. Minister wants the panchayats to depend mainly on the doles from the Government by way of the $12\frac{1}{2}$ per cent of the land revenue which the Government have set apart for purposes of the grant. I wish, Sir, the Hon. Minister had made provision such as the one which existed before, I think, and also in the Act promulgated by the Adviser regime enabling the Government to club villages together for purposes of establishing panchayats in more than one village instead of saying that panchayats shall be established for every revenue village with a population of 500.

“Section 22 provides for the direct election of the President. I must confess, Sir, that the Hon. the Minister for Local Administration is far ahead of the times. He is prompted by the spirit of the days when it was felt that even the Governor or the President of the Republic should be elected directly by the voters. While I appreciate his anxiety to train the electorate first of all to elect their own president directly, I fail to see any provision made in the Bill providing for the removal of the president if the electorate found him unsuitable; I fail to see any provision made in the Bill by which if a percentage of the electorate feel that they are dissatisfied with his conduct or have no confidence in him, they could take action for removing him from the presidentship. As far as I could see, there is no provision in the Bill for that purpose and perhaps they will have to appeal to the Government and I do not know if even the Government have power to remove him unless he is guilty of grave misconduct.

“In Chapter III, the Hon. Minister has provided for obligatory functions and there are also optional functions. Sir, obligatory functions provided under this Bill are functions which involve expenditure and I am doubtful if with the financial provisions made in Chapter IV, there would be enough funds especially in a village with a population of 500. Obligatory functions do not include the

[Sri R. Suryanarayana Rao] [20th January 1950]

responsibility for elementary education. I am one of those, Sir, who in the Advisers' regime pleaded that the conduct of elementary schools should be wholly the responsibility of the village panchayat. I find that it is an optional duty imposed upon them. I wish to ask in this connexion, Sir: Who is better and more qualified and more interested in the education of his children than the villager, who not only contributes the taxes but is also in intimate and daily touch with the provision for education made for his children and who, immediately he found schools not functioning properly, could take the matter to the panchayat or the panchayat themselves may take notice of it and see that the schools are run properly? Unless this question of elementary schools which is now optional devolves upon panchayats, the provision for elementary education will continue to be the responsibility of the district boards and in a matter relating to district board, the panchayatdars have no voice and all that they can do is to make representations. At present, Sir, panchayats are running some schools and to my knowledge, whatever the Department of Education may say, panchayat schools are better run than district board schools. Sir, I wish the Hon. Minister had included the provision of elementary education as an obligatory function of the panchayat.

3-15
P.m.

"Then, Sir, we come to Chapter IV relating to taxation section 63 deals with the taxation proposals. I do not think my hon. Friend, the Leader of the Opposition, who is unfortunately absent now, was right in criticising the use of the word 'shall' instead of the word 'may.' For, unless anybody who is entrusted with certain functions is also provided with funds by statute, I do not think, that body can discharge its functions properly. So there is nothing wrong in asking every panchayat that they should levy certain taxes compulsorily. There is obligatory provision in respect of taxation regarding land-cess at the rate of three pies in the rupee on the annual rental value of all occupied lands which are not occupied by or adjacent and appurtenant to buildings, a tax on agricultural land for a specific purpose and fees on any commercial crop bought and sold in the village other than those levied under the Madras Commercial Crops Markets Act. All these appear to be very good sources of taxation. But I am sure the Hon. Minister for Local Administration realizes how difficult it is for any panchayat to venture to inflict any of these taxes. Already there is the cry that land is already over-taxed; that the land-cess now levied is very high, and so any further increase in the rate of land-cess even in respect of all occupied lands which are not occupied by, or adjacent and appurtenant to buildings, or a further tax on agricultural land for a specific purpose will be out of question for a long time. So practically panchayats have to rely mainly on the funds derived from house-tax, profession-tax and vehicle-tax; and I am afraid the proceeds of these taxes will not be enough for the panchayats to discharge their obligatory functions to the satisfaction of the electorate. Then, Sir, the Hon. Minister has provided that 12½ per cent of the land revenue should be earmarked as grant to panchayats to be distributed on the basis of population. Sir, this

20th January 1950] [Sri R. Suryanarayana Rao]

12½ per cent of land revenue is that of the whole Province, and not of that collected in a particular village. If it had been 12½ per cent of the land revenue collected in that particular panchayat area, that would have been far more equitable as it would assist the panchayat in being sure of what income they would get and frame their budget suitably. But, now they have to look to Madras, or rather to Fort St. George to know what amount out of the 12½ per cent they would get. I think, some time ago there was a proposal that a certain percentage of land revenue collected in the villages should be earmarked for the panchayat of those villages to enable them to frame their budget and carry out their obligations. Sir, I think this is a lacuna that has to be seriously considered. If the object of the Hon. Minister is to assist the panchayats to discharge their functions satisfactorily the system of doling out from the 12½ per cent of the land revenue collections in the entire Province cannot work well. Because it is liable to be subjected to influences; and those that are influential with the Government will get more. So I think instead of that, it would have been better if the Hon. Minister had said '12½ per cent of the land revenue collected in the village shall be earmarked for the use of the panchayat of that village.' If such a method is adopted, then, I would venture to say, even 12½ per cent would not be necessary. Even 10 per cent or 8 per cent would be sufficient in certain panchayats, to start their career under good auspices, and to discharge their functions in such a manner as to show that panchayat raj is really helpful to the people of the village.

Sir, I was intrigued to read section 133 in which judiciary functions are being sought to be given to an executive body like the panchayats. While the Hon. Minister for Law is a protagonist of the separation of the judiciary and executive functions and while the Government are carrying out the separation of judiciary and executive functions elsewhere, in this sphere of village administration, an attempt is made to combine the executive and judiciary functions! Sir, on this subject, we have always resisted. There is any amount of literature on this in the archives of the Secretariat, on both sides of the question and ultimately the view has prevailed that so far as the village panchayats are concerned, which is an executive body, as the executive officer has only to carry out the orders of the panchayat, the panchayats cannot be entrusted with judiciary functions. Should that be done, in many of the cases, the panchayat board will have to be the complainant and also the judge. This combination of the judicial and executive functions at the bottom is very very dangerous, or more dangerous than at the top, as the accuser himself will have to sit as judge in the disposal of his own cases. I do not know how this aspect of the matter did not strike the Hon. Minister for Law, when the Bill went before the Cabinet. While I object to this, I have no objection to the income arising out of the working of these courts being earmarked to the funds of panchayats. When a panchayat goes against an occupier of a house for non-payment of house-tax, that

[Sri R. Suryanarayana Rao] [20th January 1950]

same panchayat has to issue coercive process. Again, there are several cases, for example, against a violation of health laws, an occupier of a house might have to be prosecuted before the village court, and that court will be the panchayat, and the panchayat will be accuser and the panchayat will be the judge. So, in such a case, I do not think an ordinary citizen will get justice by combining these two functions.

" Then I come to another subject. Sir, it is a good move that the power of registration is conferred under section 133. For, it is true that often villagers have to walk long distances even for registering small documents. I am glad this power has been given to the panchayats. I am sure in course of time they will give such satisfaction that slowly the power for registering even documents of higher value will be given to them. I take it, the registration fees thus derived will go to the funds of the panchayat. I am not sure whether any provision in this behalf has been made anywhere in this Bill. If such a thing is done I am sure it will go to augment their sources of revenue.

" Then, Sir, I do feel that the executive officers provided for in this Bill will perhaps become more meddlesome than they should be. In saying so, I should not be understood as to mean, that I am against an executive officer being employed. The function of that executive officer should be simply to carry out the orders of the panchayats and nothing more. He should not have any powers to write behind the panchayat to the Inspector. Unless it is prevented even now, I am sure, that is what is going to happen. The executive officer may serve as a spy of the Inspector in the panchayat, and he may write against the panchayat to the Inspector. To prevent this, there should be a rule stating that no communication from the panchayat should proceed to the Inspector without the signature of the president. Sir, in fact, that is what is being done in the Corporation of Madras. There, no communication can be sent to Government except under the signature of the Mayor; so that the Mayor, who is the custodian of the interests of the citizens, will always know what is happening. So, in the absence of such a provision in this Bill, what will happen is, the executive officer may carry tales against the panchayat, and in fact, he may do many things, and the panchayat will become aware of them only when a notice is served by the Inspector on the panchayat of abuse of power or gross dereliction of duty, for which, in reality, the executive officer himself may be responsible. When we give power to the executive officers, let us give them power which they may not abuse; and let us give panchayats real power. There need be no apprehension of abuse of power by the panchayat. For there is the Government always at the top, which has got the overriding power and so it can deal with any recalcitrant panchayat suitably. But here, in this Bill, the executive officer should not be installed in a position to take advantage of it and write to the Inspector against the panchayat. That is a danger against which we should guard ourselves. Otherwise this panchayat raj will

20th January 1950] [Sri R. Suryanarayana Rao]

become a mere mockery, and as was said by the Leader of the Opposition, it may perhaps become an executive officer raj and not a panchayat raj. So unless we amend the Bill suitably even now, the present Bill may end like that. I may even say, perhaps at the end of one year from the passing of this measure, the Hon. Minister for Local Administration may himself come before this House and say that the panchayat board is not able to control the executive officer, because that officer owes his position not to the panchayat but to the Inspector; and so the Bill should be suitably amended. Further, Sir, the executive officer may act to please the Inspector, and the Inspector will always rely on the executive officer's report rather than on the report of the panchayat board. In fact, in the field of municipal administration, that is the kind of grievance the elected representatives, the chairman and the councillors have. While I agree that the appointment of executive officers should rest with the Government, but once he is appointed, he should be made to feel that he is the servant of the panchayat and not the master of the panchayat. Contrary to this principle, the provisions in this Bill extol him to the position of a master. So there is the likelihood of the danger of panchayat raj becoming an executive officer raj, on account of the position of the executive officer. I do not know whether it is not too late now for the Hon. Minister to recast any of the provisions of the Bill. I wish he had looked into this matter himself earlier, having himself received so many complaints from the chairmen of municipalities regarding the conduct of Commissioners. I, therefore, plead that the Hon. Minister might see that the executive officers do not abuse the privileged position accorded to them under this Bill. I do not know how Government would guard against this danger. But if this danger is allowed to go on, I am afraid, in course of time, nobody in the village will be willing to stand for panchayat election and nobody will be willing to become president of the panchayat, because they would not like to be looked upon with suspicion and distrust by the executive officers, who will be only dancing to the tune of the Inspector. Sir, I feel that in the select committee stage a least Government could have looked into this matter and set it right. Also I wish that the taxation proposals had provided enough funds for the panchayats and that the so-called contribution from land revenue collections are an assured income to all panchayats, as otherwise their finances will be bad, and, therefore, Sir, I feel, on the whole, the panchayat raj we are looking forward is not going to come."

* SRI K. VENKATASWAMI NAYUDU :—“ Mr. President, Sir, I thought there would be unanimous appreciation for this measure because it was a long-cherished desire that we should restore panchayat raj in this country, as such a raj was of great benefit to the country in ancient days. Introduction of panchayat raj was one of the items in the constructive programme of Mahatma Gandhi. But when a Bill to give effect to that long-cherished desire is actually brought forward, I find that there is a certain amount of scepticism. A friend of mine, who was very critical of

[Sri K. Venkataswami Nayudu] [20th January 1950]

Congress work, told me that this Bill was one good piece of legislation introduced by the Congress Government and that he wished to congratulate them on it. I think we must feel really glad that this legislation has come. In every Act there is bound to be some defect or other. I am thankful to Mr. Suryanarayana Rao for making various suggestions for improving the Bill. They are worthy of consideration and if there is any necessity for rectification, it will be done.

"All of a sudden we cannot hand over the entire administration to the villagers who are not accustomed to it. While it is very necessary to train the villagers in local administration, the Government should move cautiously and slowly in the initial stages. The present Government are not a foreign Government with no touch with the people but a Government which represent the people and know their interests well. Therefore we need not think that the executive officer or Inspector will act like Hitler or work against the best interests of the village. Till now only municipal bodies were entrusted with the functions and powers enumerated in Chapter III. No village ever knew what a road was or what conservancy was. This is the first time that we are conferring on villages the power of local administration and making them autonomous units. To enable the village administrative units or panchayats to conduct the civic administration efficiently, the Government are giving a certain amount of financial aid. It is very necessary to give effect to this long-overdue reform of training citizens in local administration. Even in municipal bodies and big panchayats which have been in existence for a number of years, there have been factions and supersession. As we progress and learn to administer our affairs, we can rectify mistakes and improve. Because these defects are likely to occur, we should not say that it is not necessary to confer the power of local administration on villages. On the other hand, we must encourage every village to form a panchayat to provide amenities for the people. The taxation powers mentioned in the Bill are necessary, because taxation is the only means by which real work can be done. Provision is made for Government help to poor panchayats and this is indeed a welcome feature in these days of financial strain. This morning the Leader of the Opposition was very vehement and there was more force in his speech than argument. That only shows that he has got some anger against this side of the House because of some external circumstances. Really there was very little against this Bill in his speech. He objected to the Bill on the ground that it gave to the Treasury Bench enormous power and scope for patronage in making appointments to the several posts that were created by this Bill. That is not the object in introducing the Bill. Here is a bold attempt made by a popular Government to confer autonomy or self-government on villages by investing them with several powers including the judicial power. The object of this Bill is to introduce autonomous rule in villages. That is a laudable object over which we must feel happy. In the

20th January 1950] [Sri K. Venkataswami Nayudu]

past Madras led the rest of India in forward legislation, and in passing this Panchayats Bill also, Madras is giving a lead for the other Provinces to follow. We want the support of all sections of the House in this initiation of real Swaraj in the country. On the 15th of August 1947 India got independence and on the 26th of January 1950 she is going to have a new constitution. As the Leader of the Opposition told us, the directive principles of State policy embodied in the new constitution are meant to do something good for this country. To implement one of those directive principles, we have brought forward this Bill almost simultaneously with the inauguration of the Indian Republic and everybody must co-operate to see that that this Bill is made a success in its working.

“ The Government also must take a certain amount of responsibility in seeing to the proper functioning of local administration. For that purpose, provision is made for the appointment of executive officers. If there is abuse of power, it may be on all sides. When power is conferred on an officer, ordinarily he want to exercise it and in the exercise of it he may commit mistakes. That is only his first reaction. But later on, he wants to exercise his power for the benefit of everybody. The executive officer of the panchayat, the president, and the Government must see that the powers conferred by the Bill are exercised in the interests of the villages.

“ The direct election of the president by the entire electorate in the panchayat area is a good idea and I like it. A president so elected will be the popular leader of the village and the villagers will have confidence in him. If a handful of representatives were to elect the president, a person who gets six votes in his favour gets elected against the other person who gets five votes. That is not fair. Therefore it is that all the voters in the panchayat area are asked to choose their leader. We must work for the ultimate object, namely, the choice of the President of the Republic though that is not the immediate object. Here is the foundation for the realization of that object.

“ This Bill is a very important measure. I am very happy that it has been introduced and I hope that it will be worked as successfully as possible. I congratulate the Hon. Minister for Local Administration on taking such great trouble to bring forward this Bill which is bound to be of great benefit to our people. I hope the speakers from the Opposition side, who will follow me, will at least give the praise that is due and not stint it because there is really something in the Bill which we must encourage. We want this Bill to be accepted by members on all sides so that it may be a Bill of the people by the people for the people. We want a chorus of appreciation not because it is personal to the Minister concerned but because this legislation is a genuine attempt to implement a directive principle of State policy and an ardent desire of Mahatma Gandhi. There may be mistakes. Every Act may contain mistakes and the lawyers will pick holes. But we, lawyers,

[Sri K. Venkataswami Nayudu] [20th January 1950]

have got to speak for both sides. I think our Leader of the Opposition was speaking for one side only. I am saying all this because I feel that this is a Bill on which there must be an unanimous vote from all sections of the House. A popular Government will rectify mistakes, if mistakes there be. The principle of the Bill must be acceptable to everybody and the hon. Members must bless it with success."

3-45
p.m.

* SRI N. RANGA REDDI:—" Mr. President, Sir, whatever might have been the apprehensions that have been raised with regard to the successful working of this measure, I am inclined to support it wholeheartedly. That does not mean that I agree with the Hon. Minister who has brought forward this Bill in every provision or every principle that it contains. Having been the president of a district board for a fairly long time, the Hon. Minister for Local Administration has come to the conclusion that if any good is to be conferred upon the villages, the present local bodies are not the proper bodies to do so and what they have done in that direction has not been sufficient. He has therefore thought of a very bold experiment and he wants to make that experiment by means of this legislation and I think that this experiment should succeed in conferring very great good upon the villages. I know, Sir, that the finances of the local bodies were mainly spent upon the welfare and amenities of the townsmen, although the representatives of these local bodies, namely, the taluk boards and district boards, came from the villages. It was always a fight between the cities or towns and the villages and that fight is going on even to-day.

" Sir, so far as the condition of villages is concerned, my impression is that most of them, particularly in the Rayalaseema districts, of which I know very well—and I cannot claim to have much knowledge of the villages in the other parts of this Province—are in a very bad state and show no signs of improvement. They remain in the same old state. They have no proper communications, and are very difficult to be reached. There are no elementary schools in these villages, nor are there any other facilities for education among the children living there. In very many of these villages, there are no hospitals or medical assistance nor any maternity or child-welfare centres, as we have in towns. If at all any of these things are started, they are started only in bigger villages which are more or less like towns, and the smaller villages naturally remain neglected, and it is therefore very necessary that an honest and a real attempt should be made to improve the condition of these smaller villages, and it is that that the Hon. Minister for Local Administration is seeking to do by this legislation and we should really be grateful to him for having brought forward a measure like this.

" Sir, the main criticism that has been levelled against this Bill is that the Government being unable to supply the necessary finance of these village panchayats have asked them to tax themselves, and because the Government have wasted all their provincial

20th January 1950] [Sri N. Ranga Reddi]

revenues which come to about Rs. 50 crores per annum they say that they are not able to provide any sum for these villages. Sir, I am not in a position to state whether that criticism is really justified or not, but one thing is certain. Hon. Members who made that criticism have not substantiated it with reference to any concrete facts. They have simply made the statement that the Government had wasted away all their provincial funds and that therefore they were asking the villages to tax themselves. I submit, Sir, that it is for the hon. Leader of the Opposition who made that statement to substantiate it and to explain in what way the provincial funds had been wasted away and in what way they could have been better utilized.

“ Sir, apart from that, he also attacked certain other provisions of the Bill. For instance, he did not like the division of the panchayats in this Province into class 1 and class 2 panchayats. He expressed his apprehension that class 1 panchayats would not collect the taxes that were due to them and that they would go under class 2 panchayats. In making that point, the hon. Leader of the Opposition forgot one thing. It is not that all class 1 panchayats should collect Rs. 10,000 by way of taxes. It is enough if the estimated income is Rs. 10,000. It does not in the least matter whether class 1 panchayats actually collect this Rs. 10,000 or not. If their estimated annual income is Rs. 10,000 and the population of the village is 500, they are bound to be included as class 1 panchayats. Whether they are able to collect the taxes or not, is a different matter. Later on, the hon. Leader of the Opposition introduced a vicious principle to which I should like to take objection. He asked why 12½ per cent of the total provincial revenues collected from the whole Province should be given to class 2 panchayats and why class 1 panchayats be deprived of any share in that revenue. Sir, I have pointed out more than once that there are very many poorer districts and poorer villages in this Province. If our provincial revenues are to be distributed on the basis that every unit should get what it has paid in the form of tax, how will the Government find the money to assist villages which are very poor and have not paid any tax at all? But he wanted that the *status quo* should be continued. I submit, Sir, that this is not a correct policy and no Government could function on that basis. The Government should come forward to help not only the rich but also the poor and where the village panchayats are so poor that they are unable to finance themselves, and are unable to start primary schools or maintain dispensaries, or provide themselves with necessary amenities and conveniences, mentioned under clauses 51 and 52 of the Bill, then the Government should come to their rescue and see that necessary funds are provided for them, so as to place them on the same footing as other villages.

“ Sir, my hon. Friend Mr. R. Suryanarayana Rao said that it would be much better if the villages were assured that they were going to get all the land revenue that they have been paying. That argument, Sir, is also subject to the same objection, because the

[Sri N. Ranga Reddi] [20th January 1950]

land revenue from one particular village might be very small and yet it might require greater financial assistance from the Government than others in view of its very poor financial condition. According to this Bill, class 1 panchayats are not entitled to any provincial grant. It is only class 2 panchayats who have inadequate finances and which could not be expected to raise any amount by way of taxes, that should be helped by the Government and that has been provided for in this Bill. No doubt, sometimes, it might be that the Government are not distributing their grants with reference to the needs of particular villages, and perhaps it may be that they may not be holding the scales even in certain cases, but all the same, it must be admitted that no uniform policy could be adopted in a matter like this. I agree, Sir, that sometimes a person who has got more influence gets a greater advantage over others and our Government, being a popular Government, is naturally subject to the same criticism, but at the same time, people can exercise their will over the actions of the Ministry in seeing that proper and equitable distribution of the provincial revenues is made with reference to the needs of the villages. Therefore, Sir, I do not think that there is much justification for my hon. Friend Mr. R. Suryanarayana Rao to say that this sort of distribution should not be made and that all the revenues derived from a particular village should be spent in that village itself.

“ Sir, my hon. Friend the Leader of the Opposition took very great objection to the provision regarding the appointment of the executive officers and condemned the Bill as a whole by saying that no real measure of self-government has been conferred upon the village panchayats, although the object of the Bill was said to be to make the village panchayats the republics of the village. He said that we must not call this Bill a Panchayat Bill giving full autonomy to the villagers, because the real power vested only with the executive officers, who were to be appointed by the Inspector of Local Boards. I may submit, Sir, that if this argument is to be pursued to its logical conclusion, then the Provincial Government should also be carried on by our two Houses of Legislature, the Legislative Assembly and the Legislative Council. But are we, the members of the Legislature, running the entire administration ourselves? No, it is not possible; nor is it the intention. There are the permanent civil services and there are various other subordinate officials under them to carry out the policies laid down by the Legislature. In the same manner, if decisions are made and resolutions are passed by the members of the panchayat in their meetings, those decisions and resolutions will be put into execution by the executive officers. There is no other way of putting these decisions into execution. It may be that the executive officers are appointed by the Inspector of Local Boards. In some cases, the executive officer may perhaps be the president himself. Opinions may vary as to whether it is right that the executive officer should be allowed to exercise such large powers as those exercised by the president of the village panchayat. But I am sure, Sir, that most of us here who have had some

20th January 1950] [Sri N. Ranga Reddi]

experience of the working of municipal councils, taluk boards and district boards will certainly agree that so far as the executive functions of these bodies are concerned, it is always much better that they are performed by an independent officer who has nothing to do with the local politics and who is in no way connected with the elections to these local bodies. This I say from my bitter personal experience. I know, Sir, that when the elections to these district boards and other local bodies took place in the year 1937, with what bitterness the elections had been fought and how much money had been wasted by the contesting candidates in actually purchasing the votes and how rampant were the corruption and other malpractices in those days. So, Sir, when a person who has spent so much money and has taken so much troubles to win the elections, if he is to be placed at the head of affairs and asked to administer the panchayats, the local boards and district boards, is he not going to listen to the wishes of those who gave him support? Is he going to act justly by the people who have not voted for him? Therefore it is, Sir, that we want an independent person who has nothing to do with the elections, and who is unconnected with the parties in the village to be there to carry out the resolutions passed at these panchayat board meetings. My hon. friend Mr. Suryanarayana Rao said that these executive officers who are appointed by the Inspector of Local Boards would flout the wishes of the members of the panchayat, because they owe their appointments, not to the panchayat boards, but to the Inspector, that they look to the Government for their promotion and that they would dance attendance on the Inspector and that they would not care to do things that are necessary for the welfare of the people in the villages. Sir, arguments can be advanced on both sides, and we must not be merely carried away by arguments. After all, who is this executive officer? This executive officer is a person appointed by the Government and for all practical purposes, he is a Government servant and his promotion depends upon the good he turns out in the panchayat. The Inspector of Local Boards will judge him only by the work he has done in the village when the question of promotion comes. He will see the record of his work in the panchayat and then only he will consider whether that person is fit for promotion. Simply because he dances attendance on him, the Inspector of Local Boards, who is the head of the department, is not going to be carried away by that. I am sure, Sir, that those days when promotions were given on such considerations are gone. Perhaps there were some people in the days of the bureaucratic British regime who got promotion by such devices and by simply dancing attendance on Civilian. I hope, Sir, that the present heads of departments would put an end to such things, and that the Inspector of Local Boards who is the head of these panchayats would see that promotions are given only to the most deserving executive officers, who have really done some good work in the villages.

“ Sir, there is another thing with regard to these executive officers, on which there is bound to be some difference of opinion.

[Sri N. Ranga Reddi] [20th January 1950]

There are some people who hold the view that these executive officers should be completely free from the control of the members and presidents of these panchayat boards, so far as the administration of these boards are concerned. There are others who think that they should be completely subservient to the members and the presidents of the panchayats. This is a very difficult question and it is only time and experience that could solve this problem. Now we can only lay down rules. Still there is bound to be friction between the executive officer and the president of the panchayat, because the latter may feel that he has been elected by the whole village, that he is more powerful than the executive officer, that the executive officer is only a stranger and that he has to carry out the orders issued by him. On the other hand, the executive officer may feel that he is answerable only to the Inspector of Local Boards and that he should obey only the orders of the Inspector and not those of the president. So, this is going to be a difficult matter and it is only time, experience and good sense that should guide them, there should be a harmonious working of these institutions. But, Sir, with the little experience I have of these local bodies, I may straight away say that I am always in favour of an executive officer. I know, Sir, that in the year 1931, the elected presidents of the panchayat boards were empowered to levy profession tax to the extent of Rs. 150 per half-year and if the tax was not paid, the person concerned was prosecuted and brought before the magistrate. The magistrate would say, 'I cannot go into the merits or demerits of your case. I will simply go by the orders of the panchayat and if you think that you are unjustly taxed by the panchayat board, it is for you to file a suit in the civil court.' I only ask how many such people are there who can go to civil courts and have the injustices set right. It is not possible for everybody to do so. Unless there is a big party and unless there is a big common fund, as it were, to fight these unjust causes, these people will simply suffer. Once he has been taxed, he will simply say 'I will do your bidding'. Therefore, it is absolutely necessary that such things like the assessment of profession tax and house tax should always be in the hands of an independent person who is unconnected with the elections. I think the Government are right in saying that such duties should be discharged by independent officials whom they propose to appoint. Therefore, I am not for investing such powers in the members of the panchayat or its president.

4 p.m.

" Having said so much, I am inclined to agree with the hon. Member Mr. Suryanarayana Rao's criticism on the two important provisions. Those provisions are contained in clauses 50 and 51. Clause 50 defines the obligations of the panchayat to do particular things whatever might be the cost therefor. Clause 51 defines the optional things that the panchayat may do. Unfortunately most of the things that appeal to the villagers like the starting of an elementary school, the starting of a dispensary, and the starting of a hospital, are all provided for in clause 51. That is to say, the panchayat is not bound to do these things. These are all optional. What I am saying is that where a village panchayat is invested

20th January 1950] [Sri N. Ranga Reddi]

with so much responsibility, and where it is not able to do all the things that are entrusted to it, the panchayat will be brought into disrepute, as it were. The duties mentioned in clause 51 should be tacked on to the duties mentioned in clause 50. Then only the panchayat administration will be successful. Then only the president and the members of the panchayat will have justified their existence. If an amending Bill is necessary for this purpose, it should be brought forward at an early date so that every panchayat would be compelled to do these things. The Government might say that they have not the necessary finance. But they are putting the panchayats in an inconvenient position, and these panchayats will incur the displeasure of the villagers.

“ Sir, the Hon. the Leader of the Opposition stated ‘ Oh; it is a taxation measure, and therefore it is bound to be unpopular ’. It is not a new fact. We know from the beginning that any politician levying a tax is bound to become unpopular. I am yet to see the day when any politician, who imposes fresh taxes, would become popular. I cannot visualize it. Unless our very nature is changed, I do not think any measure of taxation will be welcomed by the people. But responsible people who want to hold the reins of power and who want to run the administration should see whether these taxation measures are necessary and whether there is any other method of providing sufficient revenues to the villages to improve their condition. If no other method is possible, however unpleasant it might be, we should go in for taxation measures. If people are satisfied with the way in which the provincial revenues are spent, I ask them to show us the method by which we can raise the revenues that are necessary for improving the villages. Therefore, I submit that we are not going to be frightened by criticisms that this is a taxation measure and therefore we should become unpopular. If this measure is going to confer real good on the people, I welcome it. It has to be seen whether we are going to have real good.

“ As my hon. Friend Mr. Suryanarayana Rao stated, this Bill makes it compulsory that every village with a population of five hundred should be made a panchayat. The Inspector of Local Boards has no option in the matter. He has to declare every village a panchayat. But, Sir, from the experience that we have, it looks as though that we could have proceeded more cautiously on account of the existence of bitter factions that are raging in the villages at present. But the other view is that if we are going to postpone the elections or to postpone the conferment of power on the village panchayat on the ground that factions would become bitter, I do not think we can ever improve the condition of the village. At some time or other we have to take the risk. Unless we take risks there would not be any gains. In a matter like this, if we do take risks and if we find that there is really no gain, nothing would prevent us from retracing our steps. But it will be foolish to say that because conditions in the village have not improved, we should not take any step at all. As I said, at the very

[Sri N. Ranga Reddi] [20th January 1950]

beginning if we do not take a step like this, we can never improve the condition of the villages. Therefore let us take the risk, and if really no good is conferred on the people, then we might retrace our steps, as the Hon. Minister for Local Administration stated in the Assembly. To a certain extent, the Hon. Minister also has admitted that the clubbing of villages is absolutely necessary for doing certain things, for example the starting of a hospital, or a child welfare centre or an elementary school, or the laying out of a road. For putting into execution all these beneficial works which are of very great importance, it is absolutely necessary that villages should be clubbed together, and that there should be a common fund. Therefore, I submit that it would have been much better if more villages than one had been recognized as one unit.

“ There is one other point also, and that is the election of members to the panchayat and the election of the president. These elections mean that we have taken democracy to these villages. Democracy means the existence of two parties. When there are two parties, whatever be the devise that is adopted, we cannot abolish the two party system. It may be a two party system or a three party system. Even if we are going to elect the president by a direct election of the whole village, may I submit, that we cannot abolish the two party system? In electing members to the panchayat, it has been stated that the villages have been divided into wards, and that every ward has got its right to vote for its own member. Only the president is to be elected by the whole village. This is following the model of the American system. Students of history know very well the position of the American President and the Senate. The Senate is elected by one method and the President is elected in a different manner. Therefore, there is bound to be friction. Here also my suspicion is that there is bound to be friction. It may be said that the president, having been elected by the majority of the villagers, must command the confidence of the whole village, whereas the ward councillors, having been elected by the majority in their wards, may not command the same confidence as the President commands. May I submit that if resolutions of the panchayat are to be carried into effect, or certain works are to be put into execution, where the president occupies the position of the executive officer, he will find it extremely difficult either to carry out those resolutions or to have certain policies framed, because he might belong to one party. When he is elected by the whole village, then he has to depend on the support of his party. He cannot eschew the support of his party altogether. Therefore, I submit to the Hon. Minister that this is a matter which deserves consideration. The Government will have to see whether the panchayat administration could be successfully carried on with the executive powers in the president. As the Hon. Minister himself recognized, villages have to be clubbed together for purposes of starting hospitals or dispensaries or the laying out of roads. The Government could have made two or more villages as

20th January 1950] [Sri N. Ranga Reddi]

one unit. Why I say this is that, having had some experience of the factions in the villages, I feel that it will be better to provide bigger areas as units. The bitterness that is engendered at the time of election might be there for a long time, and it may even be carried to the ordinary administration of the panchayat. I am only submitting this matter for the consideration of the Hon. Minister. District Board elections were held about 3 or 4 months ago. I was very much afraid then that some violence might be used during elections. But to my great surprise I found that people had become wiser. They probably realized that these were things which should come very often and that there was nothing to fight so bitterly."

DR. V. K. JOHN :—" Sir, why should the hon. Member be surprised that people have grown wiser? "

MR. PRESIDENT :—" The surprise is that he has expressed it in this House."

* SRI N. RANGA REDDI :—" I only stated that people have realized that it is futile to fight these elections. When they were fighting elections, they were using violence. But now they had given it up. I say advisedly that they have grown wiser. There is nothing surprising here, and I do not know what makes the Hon. the Leader of the Opposition to take exception to my statement."

MR. PRESIDENT :—" He does not take exception to that statement."

* SRI N. RANGA REDDI :—" I am only stating that if the unit had been bigger, probably so much bitterness could not have been engendered. But this is a matter for trial. The Hon. Minister has taken one step in this Bill, and let us give it a fair trial."

" I may also state at this stage that when the president is not functioning, the vice-president is expected to function. He is expected to discharge the duties of the president. So far as the vice-president is concerned, he is elected by the members of the panchayat, whereas the president is elected by the whole village. If the vice-president who is elected by the members of the panchayat, is expected to function successfully for some time, I ask why not allow the president also to be elected by the members of the panchayat? Thereby we can completely eliminate the chance of any friction that is bound to arise between the persons who are elected by one device and the person who is returned to office by a different method. So, I say that it would be much better if the members and the president are elected by the same device. This is only my apprehension. I feel it my duty and I have done my duty also in expressing my apprehension so far as the elections are concerned."

[Sri N. Ranga Reddi] [20th January 1950]

4-15
p.m.

"The Hon. the Leader of the Opposition has said that it would have been much better to confer power gradually on the village panchayats. May I tell him that after the experience that he has and also the people of this Presidency have of how the dyarchy system has worked between 1921 and 1935 both in the Centre and in the Provinces, it is better that we confer some responsibility and power on these villages or on the taluk boards or on the district boards? If you do not confer real responsibility and real power on the people, their criticism will be always irresponsible because they know whatever they say will not be heeded or valued. I do not feel the Leader of the Opposition meant his criticism seriously so far as the principle of this Bill is concerned. He really wanted that his criticism should be taken as a genuine criticism. If that was so, I submit, Sir; it is better to confer real power straightway on the villages so that might grow and develop themselves into bodies which can do real good to the people.

"He also said that gradually all this power should have been conferred stage by stage and that control over irrigation, village court, forest, etc., should not be conferred on them immediately. Sir, if you search the whole village, how many people can you find prepared to take up these positions of responsibility? You may say, it is a different matter. Some person, either 'A' or 'B' will have to be approached. After all, there will be only a handful of people and when it is the case, it is much better that the same body of persons should be entrusted with this power so that those persons may give their whole time to the village administration and the welfare of the people. Otherwise, the people holding position with very little will devote a short time and think 'I need not take much trouble.' But if they are entrusted with the administration of the whole village, they would feel it is their own matter and they would be criticized if anything goes wrong and they would bestow greater attention. Thus we will be training some people as real leaders. That way, I really congratulate the Hon. Minister for Local Administration on conferring powers on only one body of persons.

"I need not say anything about the separation of the judiciary from the executive for it is likely to come up soon due to the kindness of my Hon. Friend the Minister for Law.

"Mr. Suryanarayana Rao at one stage said that the Bill had to be read carefully and he did not find any provision relating to the removal of the president by the people. From the experience that we have gained in the administration of local bodies, may I say that if such a provision is introduced, no president will continue for more than six months? We have seen enough trouble with motions of no confidence having been introduced, in the working of the District Municipalities Act and the Local Boards Act. Fortunately for us, the Government, having gained some experience, have laid

20th January 1950] [Sri N. Ranga Reddi]

down that motions of no confidence cannot be entertained before six months; they could be entertained only after six months. If Mr. Suryanarayana Rao really wants that a provision as he enunciated should be inserted and the power should be exercised by the people, let it be after two years or three years. But there is really a provision for removing the president, i.e., by the Inspector of Local Boards. We need not be afraid that the Inspector of Local Boards will in any way be influenced by unjust considerations in removing the president. He will be in a much better position to judge whether the president has acted wisely and properly in the interests of the administration of the village, more than the villagers themselves, because we know very often these votes are thrown away capriciously. If they find something has not been done according to their taste or will, then in such a case if these people are given the power of removal, I think no president will continue for a long time. So, it is absolutely necessary that such a power should not be given at this early stage. If we find, after working this Bill, that such a provision is necessary, it can be introduced then.

“ With these remarks, I would like to congratulate the Hon. Minister for Local Administration on having brought forward a measure which would really create a revolutionized administration in the villages and improve their conditions.”

* SRI M. NARAYANA MENON :—“ Sir, the Bill is really a good start. In fact, it is a wise step in the march of democracy and it will take democracy up to the doors of every house even in the remotest village. But one thing has to be remembered, namely, the warning sounded by Mr. Bhima Rao. The villagers are factious, uncultured and uneducated and are not in a position to govern themselves. That is really a warning, but we have to consider whether this Bill has not taken that matter also into consideration. On a perusal of the Bill, it is clearly seen that that also has been taken into account. It is an infant democracy and at every stage there is a check and a counter-check so that it can go on well and if the panchayat commits an error, there is the Inspector and above him there is another and thus a series of persons, to superintend the democracy and to bring it up in the right direction. So, the Bill is one of the best Bills which ought to have been introduced in this House, and the congratulation need not, in fact, come at our instance but it will be rung out when any Member reads the provisions of this Bill. The Leader of the Opposition himself if he peruses the Bill carefully, will join the chorus of praise for the Minister and for the Party on this side.

“ Now let me point out a few defects or a few things which may be corrected, so far as the Bill is concerned. One apprehension of mine is that a small number of 500 population is not a sufficiently large group. For every 500 or 600 population, a panchayat is to

[Sri M. Narayana Menon] [20th January 1950]

be constituted. If so, any clerk or any officer connected with the administration has to be paid. After all, what would be the income derived by such a panchayat, even after taxation and the contribution of 12½ per cent of land revenue by the Government? I believe it will not be large; it will not be more than Rs. 2,000 or Rs. 1,000 in some cases. In such a case, the administration will not be properly carried on. That defect, of course, may be removed later on but even now it is possible to see such a defect and suggest a remedy. So, there may be a clear provision in this Bill by which the smaller units can be enlarged into one unit having a population of 3,000 or 4,000 so that the income derived therefrom may be utilized properly for the administration of the larger unit of the panchayat. Under the provisions of this Bill, it can never go beyond 1,000 in certain cases but of course, in certain other cases it may be 10,000. Under clause 3 (1) (i) the Inspector shall declare every revenue village with a population of not less than five hundred to be a panchayat. So, if the population is 550 or 600, the Inspector will be compelled, under this clause, to declare that revenue village to be a panchayat. Under sub-clause (ii), the Inspector shall group a revenue village with a population of less than five hundred, with any contiguous revenue village or villages so that the total population of all the revenue villages so grouped is not less than five hundred, and declare the revenue villages so grouped to be a village. Let us assume that starting with a village having a population of 300, the Inspector can add it on to a village having a population of more than 500. The result will be a total of 800 population which the Inspector may declare to be a panchayat. Can he still add to it so that he may have a panchayat of 3,000 or 4,000 or any number he likes? If that is the interpretation that may be put upon it the defect may be remedied to a certain extent but my submission is that it is better to make the provision more elastic in order that larger group could be brought into existence for proper administrative purposes.

“Then, the panchayat will have some politically educative value. Hereafter we are going to have, on account of the adult suffrage, a large number of voters in every constituency. With the coming into effect of this Bill, the panchayat people will have elections in which the people will be trained in the proper conduct of elections. If they are trained, hereafter you can get better men and the panchayat administration can be carried out with a sense of reality because the population is limited, the area is small and the attention paid will be direct. Every detail can be understood and the real difficulties of the people will be realized. When from such a village a person comes to the Legislature or for a higher appointment, he will act with a sense of reality and a large number of mistakes will not be committed in the case of legislation or administration.

20th January 1950] [Sri M. Narayana Menon]

“ Another suggestion of mine is with regard to the taxes. The Leader of the Opposition felt that the levy of tax is compulsory in every case. But in clause 63 two kinds of taxes are envisaged. One kind is compulsorily to be levied; another is optionally to be levied. Clause 63 (i) says that every panchayat shall levy in the village a house-tax, a profession-tax and a vehicle tax. The word ‘ shall ’ is used. Under clause 63 (2), a duty shall also be levied in every village on certain transfers of property in accordance with the provisions of section 67. So, there are four compulsory levies. Under sub-clause (3), the panchayat may also levy (a) a land-cess at the rate of three pies in the rupee on the annual rent value of all occupied lands, (b) a tax on agricultural land for a specific purpose and (c) fees on any commercial crop bought and sold in the village. The word ‘ may ’ is used and so this is optional taxation. You have got both optional and compulsory taxations. Unless there is compulsory taxation, how can we have a panchayat administration? What is the source of deriving money with which the administration can be carried on? So, the word ‘ shall ’ is necessary in sub-clauses (1) and (2). The panchayat itself can consider whether they should levy land-cess or tax on agricultural land or fees on commercial crops bought and sold in the village as such taxes are only optional.

“ Sir, there is one tax which may prove to be very hard on poor people, that is the tax on transfer of immovable property. I would like to submit this from my personal experience. Suppose, a person wants to borrow money on usufructuary mortgage to the extent of say Rs. 100. He has to get a stamp paper for Rs. 8 and pay registration fee. Again there is the writer and others who will have to be paid. It will come to Rs. 15. Suppose a suit has to be brought on that transaction. Then he will have to pay Rs. 12. There is the vakil's fee, which is, I think, Rs. 7. Thus it comes to Rs. 34. So in a transaction like this, a man loses something like Rs. 35 to Rs. 40 and the Government gains about Rs. 19. The rest of the amount goes as vakil's fee and other charges. I don't think that any vakil will come to argue a suit for a fee of Rs. 7, and the man will have to pay more than Rs. 7, if the suit is a complicated one. It will thus be seen that ultimately the borrower is lost. However much we may say that there is the Agriculturists' Debt Relief Act and so on, yet the borrower will certainly be lost. By this, the middle-class people in our Province will be hit very hard. Of course this is certainly not the innovation of the present Government and it has been there for a very long time. As I come across every day both lenders and borrowers, I know their feelings. I would like to say that while administering this Act, care must be taken to issue directions that so far as the transfer of property levies are concerned, they must be reduced to a minimum. I know that this is not the Act which governs this item of taxation completely and that there are some other Acts which govern this. But whatever it is,

4-30
p.m.

[Sri M. Narayana Menon] [20th January 1950]

all these things must be taken into consideration and something should be done to give relief to those who are involved in the transfer-of-property transactions. The person who executes a usufructuary mortgage may be given some relief.

“The Leader of the Opposition referred to section 40 of the Constitution Act and said that this Bill amounts to a negation of independence under its directive. That seems to be the idea of the Leader of the Opposition. I would submit that that view is really incorrect. Section 40 of the Constitution Act says, ‘The State shall take steps to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.’ It is stated only ‘units of self-government’. That does not mean complete independent governments by themselves untouched or unchecked by any other authority. So far as the administrative affairs are concerned, it is a unit of self-governing institution. Then it may be asked, ‘Does this Bill satisfy the conditions mentioned in this Article 40?’ All of us, if we peruse the Bill, will, I am sure, find that in every matter connected with administration of the area, a panchayat has been given full powers. But there is a check. If they go wrong, there is a machinery provided to correct it. If there is any conflict, there is an authority to check it and set matters right. In that way it goes. Otherwise it is a self-governing unit. There is no doubt about that. It is probably conceived that the term ‘units’ means absolutely independent unit unconnected with the Central or Provincial Government and they can do things in whatever fashion they like and as it pleases them. I must say that it is not the intention. That is not the conception. They are only self-governing institutions and not independent units. They are self-governing institutions under a superior Government. It means only that. I submit that criticism cannot be levelled against this Act on the basis of this Article 40 of the Constitution Act.

“I do not want to refer to any other criticism either by the Members of the Opposition or others. After going through the whole Bill, I feel it my duty to point out one important thing. The unit of administration should be enlarged. There should be a certain amount of elasticity so that the population of a unit may be raised from 500 to, say, 2,000 or 3,000. I request the Hon. Minister to keep these points in mind and when necessary and if possible such amendments may be made as will help the proper administration of the panchayats.”

SRI S. B. ADITYAN :—“Mr. President, Sir, as there appears to be some kind of gap, I thought I could fill up the gap by telling the House what I feel about the provisions on this Act. Sir, there are 138 sections in the whole of this Act and it is quite possible to deal with any particular aspect. First of all, we have the constitution of the panchayats—there are presidents, vice-presidents,

20th January 1950] [Sri S. B. Adityan]

members and executive officers and other servants and officials of the panchayats. There are also the duties and powers of the various officials provided for the proper working of the self-government. Now I would rather like to deal with the financial aspect. The Leader of the Opposition has dealt with this and Hon. Suryanarayana Rao also has dealt with the financial aspect. I feel that I will be quite right and proper if I dealt with that particular aspect. For a casual observer it looks as though there are various contradictory provisions in the financial section, particularly section 63 and the following sections. It seems to the first reader that there are some provisions for compulsory taxation—house-tax, profession-tax, vehicle-tax and so on. There are some other optional taxes. There are some taxes which the panchayats must impose and some which they may or may not impose. It looks as though that it has been rather casual and cursory. But on a proper reading of the Bill, one will find that a great deal of thought and time and careful consideration has been given to the whole scheme. It is a well-planned Act—not only the preliminary provisions, but particularly the financial provisions. Dealing with the financial resources of the panchayats, we find that there are various kinds of resources. First of all you have the Government grant which is expected to be about one crore of rupees. Now one has to consider whether this grant would by itself be sufficient to run any panchayat. Let us take that ordinarily a panchayat will consist of a 1,000 people. Although the minimum which is stated in the Bill is 500 persons, let us take on an average that a standard panchayat will consist of about 1,000 persons. If it consists of a 1,000 people, then the Government grant which works out, I believe, at the rate of one-fifth of a rupee per head comes to about Rs. 200. A small panchayat will get a grant of Rs. 100 and a bigger village panchayat might get Rs. 200. Now considering the various duties placed upon the panchayats, it is quite obvious that the Rs. 200 will be quite insufficient. Therefore other sources must be found and there ought to be taxation. The various duties which are placed on the panchayat again are well thought out and planned. There are certain compulsory duties and certain optional duties, compulsory duties such as roads, drains and cleansing, which ought to be performed by a panchayat. Now there are also optional duties, such as provision of schools or dispensaries or welfare centres. These are optional duties. That is, it is open to the panchayat to take up responsibilities on these or they may not. Now the Government grant, viz., Rs. 200 for a population of 1,000 will be wholly insufficient even for attending to the compulsory duties. Well, if the village has to be cleansed, this Rs. 200 will not be sufficient even to pay the sweeper or scavenger. Therefore it will be seen that enough grant ought to be supplemented by other sources. What is provided in this Act is certain standard or compulsory sources. These are four.

“ First of all you have got the house-tax, then profession-tax, vehicle-tax, and the transfer of property fee. These are fixed or

[Sri S. B. Adityan]

[20th January 1950]

standard compulsory sources of revenue. If you carefully look at these sources, you will find again that it is not done in a careless manner. A great deal of planning, thought and consideration had gone into the whole system of the taxation measures. For instance it is a well-known theory that the tax will fall on the shoulders of those who are capable and who can afford to pay. Take every one of these taxes. You will find that it conforms to the well-known standards of taxation. Take the house-tax. You will find that the huts are altogether excluded. It is beyond the powers of the panchayats to tax a hut. Only those who live in houses and can pay these taxes and contribute for public good are taxed. Then again take the profession-tax. It is not as though anybody can be taxed. It is provided that it is subject to a maximum. Section 63 and the following sections have provided for this. These are again within the limits of the maximum and the minimum which are provided in the rules. It has to be borne in mind that there will be good panchayats run by efficient people who will not be afraid of taxing. There may be other panchayats run by rather timid or weak-minded persons who will hesitate before placing even a reasonable tax. Therefore, every panchayat is asked to work within a space of maximum and minimum. Then again the third tax is the vehicle-tax. Now as would be seen from the house-tax and profession-tax, people who own vehicles are not absolutely incapable of paying a small tax. These people can as well share the contribution for the public good. Then again as regards the transfer of property fee, I am sure not even the Leader of the Opposition can find fault with the taxation on transfer of property because only well-to-do persons who have property are intended to be taxed."

DR. V. K. JOHN :—" Not only the well-to-do."

4-45
P.m.

SRI S. B. ADITYAN :—" I have seen that the Opposition is anxious to pick holes where holes do not exist. It will find mistakes where none exist. Here, in this case also, it is the same thing the Opposition is trying to do. Now, Sir, the principle underlying the taxation clause strictly conforms to any taxation standard one knows of. Now let us see the fourth compulsory source, viz., transfer of property. This is a source of revenue which was duly considered before its introduction into the Bill. It, along with the other sources, constitutes a revenue which is more or less compulsory, fixed and standard. Apart from these, there is the Government grant also. So, if one works out these things, one will find that these sources will be ordinarily sufficient to meet the cost of day-to-day administration of the village. That is, with the aid of these provisions, the panchayat will be able to perform its routine functions as also the compulsory ones. For instance, lighting, drainage and roads involve some expenditure and this can be easily met from the funds I have mentioned just now. Of course, there are several other activities for which the panchayat may require provision, such as opening of dispensaries, schools and certain other

20th January 1950] [Sri S. B. Adityan]

public utility schemes. Sir, this work can be undertaken by drawing the necessary funds from what I may call the 'optional' sources. Clause 63, which provides for certain levies by the panchayat, can be taken advantage of in this regard. I call this optional because it will only be *open* to the panchayat to impose a cess on land, for example, and it need not necessarily do so. This levy also covers commercial crops. Cotton and potatoes may bring in a good revenue as they are the so-called money crops. There is also provision to levy fees on markets, cart-stands and even slaughter-houses. Therefore, I hope that such of the panchayats as are anxious to undertake development works will certainly take advantage of this provision and they will be well advised to do so.

"Sir, I may point out here that this is not a taxation measure as was mentioned by the Leader of the Opposition. If I am correct, I think we have no powers here to vote on any measure of taxation and this House can only discuss the same. I believe it will be a different thing after the 26th January when we are going to get additional powers."

MR. PRESIDENT :--"Yes, wider powers."

SRI S. B. ADITYAN :—"I repeat this is not a taxation measure and it is not as though any portion of the taxes levied in the villages is going to be taken over by the Government. The taxes collected in the villages will be spent on the villages themselves by the panchayat. I may mention in this connection, with the permission of the Hon. the Minister in charge of this Bill, that I suggested another source of revenue and it was promised at every stage by those who were connected with the Bill in the Select Committee . . ."

MR. PRESIDENT :—"May I state what I am feeling about the way in which the Chief Whip is handling the subject? As I am listening to his speech, it looks as though he is trying to make suggestions to the Government to do this or not to do that. There is a Bill before the House with certain definite clauses and objections are raised to it by the Opposition. If hon. Members want to make suggestions as to how a particular thing should be done or why a particular provision should be included in the Bill, I am afraid, it is too late to advance such arguments as, as I have pointed out, any amount of discussion or suggestions will not induce the Government to change the provisions of the Bill except perhaps by way of amendments to be brought in by the Members, and accepted by the Government. Now, when I gave an opportunity to the hon. Member to speak, I expected he was going to refute the arguments put forth by the Opposition in objecting to certain of the provisions of the Bill but he has not done that. I would, therefore, request hon. Members to confine their remarks to the provisions of the Bill as it is presented here."

[20th January 1950]

DR. V. K. JOHN :—“ They do not want to give amendments but they want to say that the Bill is defective.” (Laughter.)

SRI S. B. ADITYAN :—“ Sir, I was trying to point out to the House what had actually happened and at the same time I was telling that the Leader of the Opposition was interested in . . . ”

MR. PRESIDENT :—“ I gave an opportunity to the Chief Whip to speak in order that he may prove as strong and as violent as the Opposition (laughter) but he has not done so.”

SRI R. SURYANARAYANA RAO :—“ He is very mild, Sir.” (Laughter.)

SRI S. B. ADITYAN :—“ Sir, I rose to speak as there were no hon. Members to speak now. To fill the gap I thought I could keep speaking till 5 of the clock.”

MR. PRESIDENT :—“ It is not so. There are many hon. Members who would like to speak. If the hon. Member will remember, I did not allow him to interject when the Leader of the Opposition was speaking, because I thought of giving him a chance to refute the points the Opposition might make.”

DR. V. K. JOHN :—“ What we see in the Chief Whip is not violence, Sir, but enthusiasm.” (Laughter.)

SRI S. B. ADITYAN :—“ Sir, even on a cursory reading it would appear that the scheme was well planned and well thought out. A point was made that the villages are a hot-bed of factions and hence the levy of taxes will be a failure from the point of view of collection. I may state, Sir, that in this matter the only factor to be considered is the ability of the villager to pay and if that is satisfied the next thing is what would be the best system to collect the taxes. I cannot at the present time think of a better system that can be evolved, than the one envisaged in the Bill. My hon. Friend, Mr. Suryanarayana Rao, made mention of the basis on which grants by Government are to be made. He suggested that it was not fair to have population as the basis. I may inform the House that this aspect was also thoroughly considered and well discussed by the Government and I am sure that the Hon. the Minister will deal with this exhaustively as he should know better than I know. But I should say, Sir, that it was the wish of the people of the dry districts that the grant should be made in accordance with the population of the area and not with reference to the revenue yield. The Bill says that a certain amount will be levied per head. If the grant should be made on the basis of this levy, a village with a population of 1,500 may get a hundred rupees by way of grant. But the people

20th January 1950] [Sri S. B. Adityan]

in the dry districts may not get even this amount in view of their slender resources and the consequent fall in the revenue from those villages. Therefore, the lesser of the two evils, they must go in for. Sir, the Government have done well to see that no choice vests in the officer who is to make the grants as to the basis that should determine the grant. The officer concerned should distribute or divide the available resources of the panchayats on the strength of the population in every village. This arrangement is an insurance against charges of partiality that may be levelled against the officer concerned or the Government. Sir, if hon. Members will look into the original Bill, they will find a provision in it allowing discretion to the Government or the Inspector to make grants. The Government felt since then that there should be certainty in this matter and the grant should be made on a uniform basis throughout the villages.

“ Finally, Sir, I may state one thing. Those who are want to find fault with a Bill will always do so irrespective of its merits. For instance, if the Bill is made flexible—that is if discretion is allowed to the Government in certain matters—then they will say and will allege that the Government are trying to have all powers for themselves. Again, if that flexibility is taken away—in the interests of the people and in a limited sphere—they will call it rigid. It is always possible for the advocates and lawyers to turn their arguments in any manner they like and to find fault with any provision whatever may be the merits of it. So, all that was to be considered by the Government was whether to have certain of the provisions flexible or fixed, and what would be more advantageous to the villagers. Ultimately, it was decided in this particular matter, viz., making of grants, that the wishes of the people of the dry areas should be given special consideration and in pursuance of that decision, population has been made the basis. I may point out one instance here. Tanjore is a place which gives a very good yield. If this were taken as the criterion, then the dry districts will get practically nothing. Population, therefore, will render more justice to the dry districts than it does to others.

“ In conclusion, I may observe that whatever the angle from which the Bill may be viewed, it must be stated that anxious thought and consideration was given to the various provisions of the Bill, particularly those relating to finance, in order to make the scheme workable.”

VI.—MESSAGES FROM THE GOVERNOR

MR. PRESIDENT :—“ I have to announce to the House that I have received the following messages from His Excellency the Governor of Madras :—

‘ In pursuance of section 299, sub-section (3), of the Government of India Act, 1935, I, Krishna Kumarsinhji Bhavsinhji, Governor of Madras, hereby accord my previous sanction for the introduction of the Madras Village Panchayats Bill, 1950, in the Madras Legislative Council.’